

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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TIMOTHY SCHUMANN

Civil No. 06-2209 (PAM/JSM)

Petitioner,

v.

**REPORT AND RECOMMENDATION**

UNITED STATES OF AMERICA,

Respondent.

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This matter is before the undersigned United States Magistrate Judge on Petitioner's application for habeas corpus relief under 28 U.S.C. § 2241. The matter has been referred to this Court for report and recommendation pursuant to 28 U.S.C. § 636 and Local Rule 72.1. For the reasons discussed below, it is recommended that this action be DISMISSED WITHOUT PREJUDICE.

Petitioner, a prisoner at the Federal Medical Center in Rochester, Minnesota, commenced this action by filing a habeas corpus petition. (Docket No. 1.) The Court reviewed the file shortly after this action was commenced, and found the petition to be deficient in several respects. Therefore, by order dated June 6, 2006, (Docket No. 4), the Court directed Petitioner to file an amended habeas corpus petition that would cure the defects found in the original petition. That order clearly informed Petitioner that if he did not file an amended petition by June 23, 2006, the Court would recommend that this action be summarily dismissed pursuant to Fed. R. Civ. P. 41(b).

The deadline for submitting an amended petition expired several weeks ago, and Petitioner still has not filed a new pleading. Indeed, the Court has received no communication of any kind from Petitioner since the prior order was entered. Therefore,

it is now recommended, in accordance with the Court's prior order, that Petitioner be deemed to have abandoned this action, and that the action be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). See also Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (recognizing that a federal court has the inherent authority to "manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases"). Because the Court has determined that this action should be summarily dismissed, it will also be recommended that Petitioner's pending application to proceed in forma pauperis, (Docket No. 3), be summarily denied.

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that:

1. Petitioner's application to proceed in forma pauperis, (Docket No. 3), be **DENIED**;  
and
2. This action be summarily **DISMISSED WITHOUT PREJUDICE**.

Dated: July 13, 2006

s/ Janie S. Mayeron  
JANIE S. MAYERON  
United States Magistrate Judge

Under D.Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **July 31, 2006**, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under this rule shall be limited to 3500 words. A judge shall make a de novo determination of those portions to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable directly to the Circuit Court of Appeals.